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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,613	12/01/2000	Yoshiyuki Okubo	L9289.00124	7932
7590	05/26/2004			EXAMINER
Stevens Davis Miller & Mosher Suite 850 1615 L Street NW Washington, DC 20036			NGUYEN, SIMON	
			ART UNIT	PAPER NUMBER
			2685	

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/701,613	OKUBO ET AL.
	Examiner	Art Unit
	SIMON D NGUYEN	2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 16-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16, 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawai et al. (5,802,471).

Regarding claim 16, Sawai discloses a communication terminal (100) for transmitting and receiving a communication signal (figs.1-4), comprising: first and second modulator/demodulators (104, 105) that modulates/demodulate voice and data signals; an input/output terminal (112) that connects to an external apparatus (101,102, 113) ; a receiver (108) that receives a control signal for use in identifying a communication type of the communication signal as voice or data; a communication type determiner (106) that determines the communication type of the communication signal when transmitting/receiving; a changeover controller (103) that selects the modulator/demodulator (figs.1-4, column 1 line 37 to column 4 line 10, column 9 line 25 to column 10 line 31, column 11 lines 5-35, column 12 lines 1-47).

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 16 as method for apparatus claim 1.

Regarding claim 19, Dawai discloses the receiver receiving the control signal (column 11 line 53 to column 12 line 10, column 13 lines 9-21).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawai et al. (5,802,471).

Regarding claim 17-18. Sawai discloses a voice-data dual mode mobile communication terminal. However, Sawai does not specifically disclose a voice signal based on a TDMA and a data signal based on a CDMA or a voice signal based on a CDMA and a data signal based on a HDR.

The examiner takes an officially notice that the TDMA, CDMA, HDR system can be used for transmitting/receiving either voice or data in a mobile communication terminal device, therefore, one skilled in the art obviously can modify the mobile station as taught by Sawai to use the voice in the TDMA and the data in a CDMA or the voice in the CDMA and the data in the HDR to provide one communication device that can communicates with different systems which is a potential save cost of building one communication for each system and improve the flexibility for communication between different system.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Epstein et al. (5,970,086) discloses a communication device having different type of communication, comprises a control signal, a voice signal, and a data signal wherein each type of signal having modulator/demodulator, wherein a control signal transmitted between two communication device to inform what type of signal to be transmitted (abstract, column 6 lines 47-53, 62-67, column 11 lines 25-27, 38-40)' Minamida (6,256,513) discloses a communication device having a plurality of communication mode including voice and data (figs.3,6) wherein a control signal is transmitted to inform a type of communication to be used (column 5 lines 2-24).

Response to Arguments

6. Applicant's arguments with respect to claims 16-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (703) 308-1116. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

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(703) 872-9314, (for formal communications intended for entry)

Hand-delivered response should be brought to Crystal Park II,
2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Simon Nguyen

May 13, 2004

Simon Nguyen